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Morocco: Sidi Ifni protesters must be given fair appeal trial and released unless assault charges are proved

Eight activists sentenced on 15 August to prison terms ranging from four months to one year in relation to a peaceful protest in the southern Moroccan coastal city of Sidi Ifni must be given an opportunity to challenge evidence against them in their forthcoming appeal trial, said Amnesty International today. Amnesty International is concerned that the protesters were unfairly tried and may have been punished for peacefully expressing their views, including criticism of the Moroccan authorities. Authorities should immediately and unconditionally release defendants whose criminal responsibility in acts of violence has not been established beyond reasonable doubt.

The eight individuals convicted are prominent activist Mohamed Amazouz, 44, a member of the local branch of the Moroccan Association for Human Rights (AMDH), the country's largest human rights group. The other protesters are Driss Amara, 33, Ayoub Mdimigh, 24, Mbarek Fikri, 21, Mohamed Derbal, 35, Rachid Benmadine, 30, and Ali Id Lhoucine, 26, Youssef Handa, 23, some of whom are also AMDH members.

The protesters were convicted of offences including "rebellion", insulting the police, and assault. However, Amnesty International considers that they were not given an effective opportunity to challenge the evidence presented by the prosecution at their trial and that the court convicting them did not establish their individual criminal responsibility beyond reasonable doubt. The organization also calls for the convictions for insult to be quashed.

On the morning of 25 July, the eight activists peacefully occupied the balcony of the former Spanish consulate in Sidi Ifni, also known locally as the Pagaduría, calling on the Spanish authorities to respond to their demand for citizenship. The protesters claim a right to Spanish citizenship as descendants of Spanish nationals before Sidi Ifni's retrocession to Morocco in 1969. The territory remained a Spanish colony for over a decade after Morocco's independence in 1956. Local activists claim that the city's economy and significance declined sharply after retrocession.

Police officers arrested the protesters in the early afternoon, in front of a crowd of onlookers, several of whom filmed the scene. Several protesters reported to the Crown Prosecutor at the Court of Tiznit that officers assaulted them during arrest and in custody, prompting the court to refer them for medical examinations on 26 July. However, the defence told Amnesty International that they were not able to access the results and reports of these examinations.

On 15 August, the Tiznit Court of First Instance sentenced Mohamed Amazouz, whom it described as the protest ringleader, to one year in prison for several offences under the Penal Code including "rebellion" (Article 300) and "inciting" rebellion (Article 304), insulting public officers (Article 263), as well as assaulting them and complicity in assaulting them (Article 267). The court sentenced Youssef Handa to four months in prison for "rebellion", insulting and assaulting public officers, and sentenced the remaining protesters to eight months in prison on the same charges.

It is apparent in the ruling that the court specifically took issue with the fact that during the protest, Mohamed Amazouz addressed fellow protesters and onlookers through a megaphone to voice the group's demands and denounce government policy towards the region. During his speech, which was filmed by onlookers who shared the footage on social media, he criticized the Moroccan authorities' perceived marginalization of the local population. He denounced the authorities' perceived obstruction of locals' access to justice and economic opportunity, and demanded that they apply the rule of law

and bring social justice. The court also took issue with his allegations that security forces tortured detainees during unrest in the city in 2008 when peaceful protests were violently repressed.

The court convicted Mohamed Amazouz of “rebellion” and “inciting” rebellion for such statements, effectively punishing him for exercising his right to freedom of expression. All eight protesters were also convicted of “rebellion” for not obeying police orders to end the protest and leave the balcony and allegedly resisting arrest. Article 300 of the Penal Code defines “rebellion” as “any attack or resistance using violence or assault towards civil servants or representatives of public authorities acting to execute orders or decisions proceeding from this authority, or laws, regulations, judicial decisions, judicial orders”. Amnesty International is concerned that this definition of “rebellion” could be applied in a broad range of circumstances and, in this particular case, that judicial authorities may have used the charge to unduly restrict the rights to freedom of expression and peaceful assembly.

With regard to the charges of assaulting public officers, Mohamed Amazouz was accused of pushing a police officer who removed a Spanish flag hung by the protesters. One protester was also accused of dropping a pile of bricks from the roof of the consulate onto the balcony which nearly missed a police officer, while another was accused of waving a wooden stick in the face of another officer attempting to access the balcony. Mohamed Amazouz was blamed for inciting such violence by allegedly telling fellow protesters to prevent police from accessing the balcony, which he denied in court.

Rather than referring to material evidence or witnesses whom the defence could cross-examine in court, the court relied explicitly on police reports to convict the protesters. These included police interrogation reports featuring “confessions” and accusations made by some protesters against each other which all eight defendants later recanted in court.

The ruling stated that it considered these police reports to be “truthful at face value unless proven otherwise”. The ruling refers to a flawed provision in Morocco’s Code of Criminal Procedure which human rights groups and international experts have faulted for many unfair trials in the country. Article 290 of the Code of Criminal Procedure provides that police statements and reports, including interrogation reports, are considered to be true, prima facie evidence until the contrary is proven. This article directly contradicts the presumption of innocence by reversing the burden of proof, as the UN Working Group on Arbitrary Detention concluded following its visit to Morocco in 2014.

In addition, the three police officers who filed statements claiming that protesters injured them during the arrest were not summoned as witnesses, and the defence was unable to cross-examine them. Meanwhile, their medical examination reports concluded that they had been lightly injured. At the same time, the results of the medical examinations undergone by the defendants after they reported being assaulted in custody were not mentioned in the court ruling nor made available to the defence.

All eight defendants have been detained at the Tiznit Local Prison, before their transfer to the Ait Melloul Local Prison on 25 August. They have all appealed against their convictions. Their appeal hearing will take place in the neighbouring city of Agadir, but a date has yet to be set. The prisoners have embarked on a number of hunger strikes to denounce their unfair trial and conviction, their conditions of detention in Tiznit, and the fact that they were denied access to the results of their medical examinations.

Mohamed Amazouz and other activists had also founded the Ifni Memory and Rights Association. A Moroccan court dissolved the association in 2015, partly on grounds that it threatened Morocco’s “territorial integrity” by asserting the rights and cultural specificity of Sidi Ifni’s population. Most protesters were members of the defunct association.

Public document

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